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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Max Reed, II,

Petitioner,

v.

D.W. Neven, *et al.*,

Respondents.

Case No. 2:17-cv-00648-RFB-NJK

**Unopposed Motion to Extend Time  
for Filing Amended Petition**

**(First Request)**

1 **POINTS AND AUTHORITIES**

2 Petitioner Max Reed respectfully asks this Court to enter an Order extending  
3 his deadline for filing an Amended Petition by 120 days until October 29, 2019.

4 The Washoe County District Attorney's Office charged Reed with one count of  
5 murder with use of a deadly weapon and robbery with use of a deadly weapon in  
6 June 2010.<sup>1</sup> The charges stemmed from a death that had occurred over six years  
7 earlier, in 2003.<sup>2</sup> Reed was initially represented by appointed counsel, but the court  
8 permitted Reed's attorneys to withdraw and granted Reed's request to represent  
9 himself.<sup>3</sup> There was extensive pre-trial litigation, and the jury trial lasted eight  
10 days.<sup>4</sup> The jury found Reed guilty.<sup>5</sup> Reed was sentenced to two consecutive terms of  
11 20 to 50 years' imprisonment.<sup>6</sup>

12 This case was launched when Reed filed a § 2254 petition with an  
13 accompanying motion to stay proceedings, and an application to proceeding *in*  
14 *forma pauperis* on March 2, 2017.<sup>7</sup> On June 19, 2017, Reed filed a *pro se* motion for  
15 leave to conduct discovery.<sup>8</sup> He explained the conditions that he had to navigate to  
16 file his § 2254 petition, his lack of access to the courts, and his lack of his own file.<sup>9</sup>

17 On June 26, 2017, the Court entered an order noting that Reed had not  
18 provided the required financial certificate or inmate account statements with his  
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20 <sup>1</sup> ECF No. 19-1.

21 <sup>2</sup> *Id.*

22 <sup>3</sup> ECF Nos. 19-2, 19-5, 19-8, 20-16.

23 <sup>4</sup> *See* ECF No. 19 (index of exhibits detailing the court record).

24 <sup>5</sup> ECF No. 50-7

25 <sup>6</sup> ECF No. 50-3.

26 <sup>7</sup> ECF Nos. 1, 1-1, 1-2

27 <sup>8</sup> ECF No. 3.

<sup>9</sup> *Id.*

1 IFP application and gave him 30 days to do so or pay the \$5 filing fee.<sup>10</sup> Reed moved  
2 to extend the deadline, and later filed his financial certificate.<sup>11</sup>

3 On October 19, 2007, Reed sought a status update noting that he couldn't file  
4 "any claims (based on) the state trial record, and district court proceeding, and the  
5 evidence in this case...without receiving replacement of his last/destroyed criminal  
6 case discovery materials and access to the trial transcripts prior to amending his  
7 federal habeas petition."<sup>12</sup>

8 This Court responded with an order dated October 25, 2017.<sup>13</sup> There, this  
9 Court noted that Reed's petition "failed to set forth any grounds for relief."<sup>14</sup> It  
10 acknowledged Reed's accompanying motion to stay, but said that Reed couldn't stay  
11 a petition without first filing the underlying petition.<sup>15</sup> It gave Reed leave to file an  
12 amended petition with claims within 60 days, but denied his motion for leave to  
13 conduct discovery.<sup>16</sup> Reed did so, filing his first amended petition on December 15,  
14 2017.<sup>17</sup> On the same day, Reed file a motion for leave to file additional pages with  
15 his first amended petition and asked for permission to refile his discovery motion.<sup>18</sup>  
16 Reed followed this motion up on August 7, 2018 with a request for a status update.<sup>19</sup>  
17 On August 14, 2018, this Court vetted Reed's first amended petition under Rule 4,  
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20 <sup>10</sup> ECF No. 4.

21 <sup>11</sup> ECF Nos. 5, 6, 6-1.

22 <sup>12</sup> EF No. 7 at 1 (parenthetical, ellipses, and underlying in original).

23 <sup>13</sup> ECF No. 8.

24 <sup>14</sup> ECF No. 8 at 1.

25 <sup>15</sup> *Id.*

26 <sup>16</sup> ECF No. 8.

27 <sup>17</sup> ECF No. 10.

<sup>18</sup> ECF No. 11.

<sup>19</sup> ECF No. 12.

1 ordered it served on the warden, and entered a scheduling order.<sup>20</sup>

2 On February 8, 2019, the warden filed a motion to dismiss.<sup>21</sup> The  
3 accompanying exhibits providing the state court record total over 6,000 pages.<sup>22</sup>

4 The Court appointed the Federal Public Defender on February 27, 2019, and  
5 undersigned counsel made their appearances on March 29, 2019 and May 2, 2019.<sup>23</sup>

6 Counsel have spoken with Reed on the phone several times and met with him  
7 in person for several hours on one occasion. Counsel have scheduled a second visit  
8 with Reed for the end of July.

9 As is the FPD's practice, counsel have ordered records from the available  
10 courts and all prior counsel associated with the case. Reed has provided counsel  
11 with the media in his possession, but as detailed in his discovery motions, he does  
12 not have a complete copy of the discovery that he can provide. The media Reed  
13 provided is on VHS and cassette tapes, and counsel are making arrangements to  
14 obtain the tools to watch and listen to the media in its original form or to have it  
15 digitized.

16 In an effort to avoid this Court's intervention, counsel have been in touch  
17 with the Washoe County District Attorney's Office to obtain a complete copy of the  
18 discovery. The prosecutor agreed to pull Reed's file, evaluate it, and get back to us  
19 within a week, about whether she can provide us with that copy. Given the age and  
20 size of Reed's case, counsel expects the discovery to be extensive.

21 Counsel are also in the process of obtaining and reviewing a co-defendant's  
22 case, a co-conspirator's case, and a third-party suspect's case. Additionally, counsel  
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25 <sup>20</sup> ECF No. 13.

26 <sup>21</sup> ECF No. 18.

27 <sup>22</sup> ECF Nos. 19-53.

<sup>23</sup> ECF Nos.

1 have identified other civil litigation that Reed spearheaded in state and federal  
2 court related to his access to the courts. Counsel are in the process of obtaining and  
3 reviewing those files as well.

4 The fact that two lawyers have been assigned to this case, rather than one as  
5 is traditionally done, is related to the size and complexity of the case. Counsel are  
6 diligently working on this matter. The requested time will allow counsel to obtain  
7 outstanding records, and review them.

8 This is Reed's first request for an extension and is not made for the purposes  
9 of delay, but rather in the interest of Reed.

10 On June 27, 2019, undersigned counsel spoke on the phone to the warden's  
11 counsel, Deputy Attorney General Michael J. Bongard, about this request. He  
12 reported that he did not have any objection, with the understanding that his lack of  
13 objection did not constitute a waiver of any available procedural defenses.  
14 Accordingly, Reed respectfully asks this Court to grant this motion and enter an  
15 order giving him until October 29, 2019 to file his amended petition.

16 IT IS SO ORDERED:

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21 RICHARD F. BOULWARE, II  
22 UNITED STATES DISTRICT JUDGE

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25 DATED this 8th day of July, 2019.  
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1 Dated July 1, 2019.

2 Respectfully submitted,

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4 Rene L. Valladares  
5 Federal Public Defender

6 /s/Amelia L. Bizzaro  
7 Amelia L. Bizzaro  
8 Ellesse Henderson  
9 Assistant Federal Public Defender

10 IT IS SO ORDERED:

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13 United States District Judge

14 Dated: \_\_\_\_\_  
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Participants in the case who are registered CM/ECF users will be served by the CM/ECF system and include: Michael J. Bongard.

Max Reed, II  
No. 1068078  
Southern Desert Correctional Center  
PO Box 208  
Indian Springs, NV 89070

/s/ Jessica Pillsbury  
An Employee of the  
Federal Public Defender